



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

HM11/0201

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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/150,799	09/10/98	046	KIMBALL, M	1649 02/01/00
First Named Applicant	LANGHAM,		35 USC 154(b) term ext. =	0 Days.
TITLE OF INVENTION	METHOD FOR MAKING NON-DEHISCENT SESAME			

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1	14242/00201	800-298.000	H64	UTILITY	YES \$605.00	05/01/00

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.  
PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS  
APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.  
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

If the SMALL ENTITY is shown as NO:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

A. Pay FEE DUE shown above, or

B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.  
Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

PATENT AND TRADEMARK OFFICE COPY

File

**Notice of Allowability**Application No.  
09/150,799Applicant(s)  
LanghamExaminer  
Melissa KimballGroup Art Unit  
1009  
1638

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to amendment filed November 5, 1999

☒ The allowed claim(s) is/are 1-46

☒ The drawings filed on Sep 10, 1998 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.**

☒ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

**Attachment(s)**

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☒ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☐ Examiner's Statement of Reasons for Allowance

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Art Unit: 1638

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karen Knezak on January 20, 2000.

2. The application has been amended as follows:

In claim 2, line 1, ~~--parent--~~ was inserted following "sesame"; in line 2 "non-dehiscent sesame" was replaced with ~~--parent--~~; and in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~ and "non-dehiscent sesame" was replaced with ~~--parent--~~.

In claim 4, line 2, ~~--parent--~~ was inserted following "sesame" and "non-dehiscent sesame" was replaced with ~~--parent--~~; in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~; and in line 8 "non-dehiscent sesame" was replaced with ~~--parent--~~.

In claim 6, line 1, ~~--parent--~~ was inserted following "sesame"; in line 2 "non-dehiscent sesame" was replaced with ~~--parent--~~; in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~ and "non-dehiscent sesame" was replaced with ~~--parent--~~.

Art Unit: 1649

In claim 8, line 2, ~~--parent--~~ was inserted following "sesame" and "non-dehiscent sesame" was replaced with ~~--parent--~~; in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~; and in line 8 "non-dehiscent sesame" was replaced with ~~--parent--~~.

In claim 10, line 2, ~~--parent--~~ was inserted following "sesame" and "non-dehiscent sesame" was replaced with ~~--parent--~~; in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~; and in line 7-8 "non-dehiscent sesame" was replaced with ~~--parent--~~.

In claim 12, line 2, ~~--parent--~~ was inserted following "sesame"; in line 7 "shatter resistance" was replaced with ~~--non-dehiscence--~~ and "non-dehiscent sesame" was replaced with ~~--parent--~~.

In claim 30, line 2 ~~--parent --~~ was inserted following "sesame" and inserted a second time following "said".

In claim 32, line 2 ~~--parent --~~ was inserted following "sesame" and inserted a second time following "said".

In claim 34, line 2, ~~--parent--~~ was inserted following "sesame" and "which" was substituted with ~~--wherein said parent--~~.

In claim 36, line 2, ~~--parent--~~ was inserted following "sesame" and "which" was substituted with ~~--wherein said parent--~~.

41. (Twice amended) A progeny plant produced according to a method of breeding non-dehiscent sesame plants comprising the steps of:

a) crossing a first parental plant having a capsule opening of slightly to barely open with a second parental plant having moderate to good capsule placenta attachment; and

42

Art Unit: 1649

b) recovering F1 plants;

[c) selfing F1 plants to produce said F2 plants; and

d) selecting said F2 plants having phenotypic characteristics of a capsule opening of slightly to barely open and moderate to good capsule placenta attachment,]

wherein said progeny plant is an F1 [or F2] plant.

42. (Twice amended) Seed produced from F2 plants produced according to a method of breeding non-dehiscent sesame plants comprising the steps of:

a) crossing a first parental plant having a capsule opening of slightly to barely open with a second parental plant having moderate to good capsule placenta attachment;

b) recovering F1 plants;

c) selfing F1 plants to produce said F2 plants; and

d) selecting said F2 plants having phenotypic characteristics of a capsule opening of slightly to barely open and moderate to good capsule placenta attachment,

wherein said F2 plant [is] can be classified into the same phenotype group characterized by a capsule opening of slightly to barely open and moderate to good capsule placenta attachment

selected from the group consisting of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W, representative seed of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W having been deposited

under ATCC accession number PTA-1400, PTA-1401, PTA-1402, PTA-1399, and PTA-1398, respectively.

43. (Twice amended) A progeny plant produced from seeds produced from F2 plants produced according to a method of breeding non-dehiscent sesame plants comprising the steps of:

43

Art Unit: 1649

a) crossing a first parental plant having a capsule opening of slightly to barely open with a second parental plant having moderate to good capsule placenta attachment;

b) recovering F1 plants;

c) selfing F1 plants to produce said F2 plants; and

d) selecting said F2 plants having phenotypic characteristics of a capsule opening of slightly to barely open and moderate to good capsule placenta attachment,

wherein said F2 plant [is] can be classified into the same phenotype group characterized by a capsule opening of slightly to barely open and moderate to good capsule placenta attachment

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selected from the group consisting of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W, representative seed of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W having been deposited under ATCC accession number PTA-1400, PTA-1401, PTA-1402, PTA-1399, and PTA-1398, respectively.

44. (Twice amended) An F2 progeny plant produced according to a method of breeding non-dehiscent sesame plants comprising the steps of:

a) crossing a first parental plant having a capsule opening of slightly to barely open with a second parental plant having moderate to good capsule placenta attachment;

b) recovering F1 plants;

c) selfing F1 plants to produce said F2 plants; and

d) selecting said F2 plants having phenotypic characteristics of a capsule opening of slightly to barely open and moderate to good capsule placenta attachment,

44

Art Unit: 1649

wherein said progeny plant [is] can be classified into the same phenotype group characterized by a capsule opening of slightly to barely open and moderate to good capsule placenta attachment at the top of the capsule as a plant of a sesame line selected from the group consisting of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W, representative seed of Sesaco 22, Sesaco 23, Sesaco 24, 19A, and 11W having been deposited under ATCC accession number

PTA-1400, PTA-1401, PTA-1402, PTA-1399, and PTA-1398, respectively.

45. (Twice amended) A method of screening for sesame plant varieties having non-dehiscence which comprises the steps of:

- a) removing a representative number of capsules from said sesame plant;
- [b) placing said capsules in a container, said container attached to a mechanical shaker;]
- [c)] b) shaking a container holding said capsules with a mechanical shaker [in said container] at an effective mechanical force to dislodge sesame seed from said capsules at a rate approximating the rate determined by dividing the weight of seed manually removed from representative capsules harvested from sesame plants left in the field for three months after initial drydown by the weight of seed manually removed from representative capsules harvested from sesame plants at initial drydown;
- [d)] c) quantitating the amount of sesame seed dislodged by shaking;
- [e)] d) quantitating the amount of sesame seed retained in said capsules after shaking;
- [f)] e) adding the amount of sesame seed dislodged by shaking and the amount of sesame seed retained in said capsules to determine the total amount of sesame seed in capsules; and

45

Art Unit: 1649

[g)] f) quantitatively comparing the amount of sesame seed [dislodged] retained by shaking to the total amount of sesame seed in capsule;

said sesame plant varieties having non-dehiscence if said sesame seed retained in said capsule after shaking is from about 65% to about 100% of said total amount of sesame seed in capsule.

46. (Twice amended) A sesame plant which passes the test according to a method of screening for sesame plant varieties having non-dehiscence which comprises the steps of:

a) removing a representative number of capsules from said sesame plant;

[b) placing said capsules in a container, said container attached to a mechanical shaker;]

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[c)] b) shaking a container holding said capsules with a mechanical shaker [in said container] at an effective mechanical force to dislodge sesame seed from said capsules at a rate approximating the rate determined by dividing the weight of seed manually removed from representative capsules harvested from sesame plants left in the field for three months after initial drydown by the weight of seed manually removed from representative capsules harvested from sesame plants at initial drydown;

[d)] c) quantitating the amount of sesame seed dislodged by shaking;

[e)] d) quantitating the amount of sesame seed retained in said capsules after shaking;

[f)] e) adding the amount of sesame seed dislodged by shaking and the amount of sesame seed retained in said capsules to determine the total amount of sesame seed in capsules; and

46



Art Unit: 1649

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could

[g)] ~~1~~ quantitatively comparing the amount of sesame seed [dislodged] retained by shaking to the total amount of sesame seed in capsule;

said sesame plant varieties having non-dehiscence if said sesame seed retained in said capsule after shaking is from about 65% to about 100% of said total amount of sesame seed in capsule.

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#### REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL

Under 37 CFR 1.809(c)(d) an applicant is require to make a deposit of seed within three months after the mailing date of the Notice Of Allowance and Issue Fee Due. The period for satisfying this requirement is extendible under § 1.136, however, failure to make the needed deposit of the sesame lines designated Sesaco 22, Sesaco 23, Sesaco 24, 19A and 11W will result in abandonment of the application for failure to prosecute. The deposit statement in the specification, and all claims which refer to the instant plants by name (29-36, 38 and 42-44), must be amended to include the deposit accession number. These amendments should be submitted before the payment of the issue fee as an Amendment After Allowance under 37 CFR 1.312(a). If the amendment is received after the payment of the issue fee the same should be made under the provisions of 37 CFR 1.312(a) and (b) with a showing of good and sufficient reasons why the amendment is necessary and why it had not been earlier presented. Finally, the statement of deposit in the specification shall contain:

47

Art Unit: 1649

- (1) The accession number for the deposit(s);
- (2) The date of the deposit(s);
- (3) A description of the deposited biological material sufficient to specifically identify and to permit examination as well as the number of seeds of each line deposited (2500 of each are required); and
- (4) The name and address of the depository. (See 37 CFR 1.809(d)).

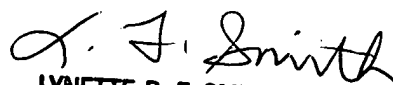
#### GENERAL INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Kimball whose telephone number is (703) 305-6999. The examiner can normally be reached on weekdays from 8:30 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MLK  
January 24, 2000

  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600